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Nwamaka Anowi
Clerk, United States Court of Appeals for the Fourth Circuit
Lewis F. Powell, Jr. United States Courthouse Annex
1100 East Main Street, Suite 501
Richmond, Virginia 23219-3517

Re: Rule 28(j) letter, *Maryland Shall Issue, Inc., et al v. Wes Moore, et al.*,
No. 21-2017

Dear Ms. Anowi:

I write to bring to the Court's attention that, on December 8, 2023, the Second Circuit issued the attached opinion in *Antonyuk v. Chiumento*, 2023 WL 8518003, __ F.4th __ (2d Cir. Dec. 8, 2023), which addressed challenges to New York's firearms licensing restrictions enacted in the wake of *New York State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022).

Although the licensing challenges in *Antonyuk* related only to New York's public-carry laws, the Second Circuit took the occasion to comment on this Court's decision in the above-referenced case. It did so in the context of explaining that, because the *Bruen* Court had expressly approved of certain states' shall-issue licensing schemes that contained "good moral character" requirements, those requirements were constitutional. To that conclusion the Second Circuit added the following:

For this reason, we disagree with the Fourth Circuit's conclusion in *Maryland Shall Issue, Inc. v. Moore*, __ F.4th __, 2023 WL 8043827 (4th Cir. Nov. 21, 2023), that firearm licensing regimes based on a determination of "dangerousness" are constitutionally impermissible. The majority's conclusion, by "invalidating an entire shall-issue statute as facially unconstitutional without any discussion [of] whether the statute's requirements infringe every permit applicant's constitutional rights, ... runs directly against *Bruen*'s clear guidance on shall-issue regimes." *Id.* at ... *15 (Ke[e]nan, J., dissenting). We find it especially difficult to square the court's

conclusion that a thirty-day review period is per se an unconstitutional temporary deprivation of Second Amendment rights, *Moore*, — F.4th at —, 2023 WL 8043827 at *9, with *Bruen*’s contrasting statements that “*lengthy* wait times ... [would] deny ordinary citizens their right to public carry.” 142 S. Ct. at 2138 n.9 (emphasis added).

Antonyuk, 2023 WL 8518003, at *23 n.24.

The Second Circuit thus recognized, as Judge Keenan did in dissent, that the majority panel’s decision in this case was contrary to the express instruction in *Bruen* that shall-issue licensing regimes, such as Maryland’s handgun-qualification-license law, are constitutional under *Bruen*. This split in circuit authority thus affirms that en banc review is necessary on this question of exceptional importance.

Sincerely,

/s/Ryan R. Dietrich

Ryan R. Dietrich
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cc: All Counsel of Record